

SENATE AMENDMENTS

2nd Printing

By: Ashby

H.B. No. 3107

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the production of public information under the public
3 information law.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 552.221, Government Code, is amended by
6 adding Subsection (e) to read as follows:

7 (e) A request is considered to have been withdrawn if the
8 requestor fails to inspect or duplicate the public information in
9 the offices of the governmental body on or before the 60th day after
10 the date the information is made available or fails to pay the
11 postage and any other applicable charges accrued under Subchapter F
12 on or before the 60th day after the date the requestor is informed
13 of the charges.

14 SECTION 2. Section 552.261, Government Code, is amended by
15 adding Subsection (e) to read as follows:

16 (e) Except as otherwise provided by this subsection, all
17 requests received in one calendar day from an individual may be
18 treated as a single request for purposes of calculating costs under
19 this chapter. A governmental body may not combine multiple requests
20 under this subsection from separate individuals who submit requests
21 on behalf of an organization.

22 SECTION 3. Section 552.275, Government Code, is amended by
23 amending Subsections (a), (b), (d), (e), (g), (h), and (j) and
24 adding Subsections (a-1), (e-1), and (m) to read as follows:

1 (a) A governmental body may establish [~~a~~] reasonable
2 monthly and yearly limits [~~limit~~] on the amount of time that
3 personnel of the governmental body are required to spend producing
4 public information for inspection or duplication by a requestor, or
5 providing copies of public information to a requestor, without
6 recovering its costs attributable to that personnel time.

7 (a-1) For purposes of this section, all county officials who
8 have designated the same officer for public information may
9 calculate the amount of time that personnel are required to spend
10 collectively for purposes of the monthly or yearly limit.

11 (b) A yearly time limit established under Subsection (a) may
12 not be less than 36 hours for a requestor during the 12-month period
13 that corresponds to the fiscal year of the governmental body. A
14 monthly time limit established under Subsection (a) may not be less
15 than 15 hours for a requestor for a one-month period.

16 (d) If a governmental body establishes a time limit under
17 Subsection (a), each time the governmental body complies with a
18 request for public information, the governmental body shall provide
19 the requestor with a written statement of the amount of personnel
20 time spent complying with that request and the cumulative amount of
21 time spent complying with requests for public information from that
22 requestor during the applicable monthly or yearly [~~12-month~~]
23 period. The amount of time spent preparing the written statement
24 may not be included in the amount of time included in the statement
25 provided to the requestor under this subsection.

26 (e) Subject to Subsection (e-1), if [~~if~~] in connection with
27 a request for public information, the cumulative amount of

1 personnel time spent complying with requests for public information
2 from the same requestor equals or exceeds the limit established by
3 the governmental body under Subsection (a), the governmental body
4 shall provide the requestor with a written estimate of the total
5 cost, including materials, personnel time, and overhead expenses,
6 necessary to comply with the request. The written estimate must be
7 provided to the requestor on or before the 10th day after the date
8 on which the public information was requested. The amount of this
9 charge relating to the cost of locating, compiling, and producing
10 the public information shall be established by rules prescribed by
11 the attorney general under Sections 552.262(a) and (b).

12 (e-1) This subsection applies only to a request made by a
13 requestor who has made a previous request to a governmental body
14 that has not been withdrawn, for which the governmental body has
15 located and compiled documents in response, and for which the
16 governmental body has issued a statement under Subsection (e) that
17 remains unpaid on the date the requestor submits the new request. A
18 governmental body is not required to locate, compile, produce, or
19 provide copies of documents or prepare a statement under Subsection
20 (e) in response to a new request described by this subsection until
21 the date the requestor pays each unpaid statement issued under
22 Subsection (e) in connection with a previous request or withdraws
23 the previous request to which the statement applies.

24 (g) If a governmental body provides a requestor with the
25 written statement under Subsection (e) and the time limits
26 prescribed by Subsection (a) regarding the requestor have been
27 exceeded, the governmental body is not required to produce public

1 information for inspection or duplication or to provide copies of
2 public information in response to the requestor's request unless on
3 or before the 10th day after the date the governmental body provided
4 the written statement under that subsection, the requestor submits
5 ~~[a statement in writing to the governmental body in which the~~
6 ~~requestor commits to pay the lesser of:~~

7 ~~(1) the actual costs incurred in complying with the~~
8 ~~requestor's request, including the cost of materials and personnel~~
9 ~~time and overhead; or~~

10 ~~(2)]~~ payment of the amount stated in the written
11 statement provided under Subsection (e).

12 (h) If the requestor fails or refuses to submit payment ~~[the~~
13 ~~written statement]~~ under Subsection (g), the requestor is
14 considered to have withdrawn the requestor's pending request for
15 public information.

16 (j) This section does not apply if the requestor is an
17 individual who, for a substantial portion of the individual's
18 livelihood or for substantial financial gain, gathers, compiles,
19 prepares, collects, photographs, records, writes, edits, reports,
20 investigates, processes, or publishes news or information for and
21 is seeking the information for dissemination by a news medium or
22 communication service provider, including:

23 (1) an individual who supervises or assists in
24 gathering, preparing, and disseminating the news or information; or

25 (2) an individual who is or was a journalist, scholar,
26 or researcher employed by an institution of higher education at the
27 time the person made the request for information ~~[a radio or~~

1 ~~television broadcast station that holds a broadcast license for an~~
2 ~~assigned frequency issued by the Federal Communications~~
3 ~~Commission;~~

4 ~~[(2) a newspaper that is qualified under Section~~
5 ~~2051.044 to publish legal notices or is a free newspaper of general~~
6 ~~circulation and that is published at least once a week and available~~
7 ~~and of interest to the general public in connection with the~~
8 ~~dissemination of news;~~

9 ~~[(3) a newspaper of general circulation that is~~
10 ~~published on the Internet by a news medium engaged in the business~~
11 ~~of disseminating news or information to the general public; or~~

12 ~~[(4) a magazine that is published at least once a week~~
13 ~~or on the Internet by a news medium engaged in the business of~~
14 ~~disseminating news or information to the general public].~~

15 (m) In this section:

16 (1) "Communication service provider" has the meaning
17 assigned by Section 22.021, Civil Practice and Remedies Code.

18 (2) "News medium" means a newspaper, magazine or
19 periodical, a book publisher, a news agency, a wire service, an
20 FCC-licensed radio or television station or a network of such
21 stations, a cable, satellite, or other transmission system or
22 carrier or channel, or a channel or programming service for a
23 station, network, system, or carrier, or an audio or audiovisual
24 production company or Internet company or provider, or the parent,
25 subsidiary, division, or affiliate of that entity, that
26 disseminates news or information to the public by any means,
27 including:

- 1 (A) print;
- 2 (B) television;
- 3 (C) radio;
- 4 (D) photographic;
- 5 (E) mechanical;
- 6 (F) electronic; and
- 7 (G) other means, known or unknown, that are
- 8 accessible to the public.

9 SECTION 4. Section 552.3215(i), Government Code, is amended
10 to read as follows:

11 (i) If the district or county attorney determines not to
12 bring an action under this section, the complainant is entitled to
13 file the complaint with the attorney general before the 31st day
14 after the date the complaint is returned to the complainant. A
15 complainant is entitled to file a complaint with the attorney
16 general on or after the 90th day after the date the complainant
17 files the complaint with a district or county attorney if the
18 district or county attorney has not brought an action under this
19 section. On receipt of the written complaint, the attorney general
20 shall comply with each requirement in Subsections (g) and (h) in the
21 time required by those subsections. If the attorney general
22 decides to bring an action under this section against a
23 governmental body located only in one county in response to the
24 complaint, the attorney general must comply with Subsection (c).

25 SECTION 5. The changes in law made by this Act apply only to
26 a request for information that is received by a governmental body or
27 an officer for public information on or after the effective date of

1 this Act. A request for information that was received before the
2 effective date of this Act is governed by the law in effect on the
3 date the request was received, and the former law is continued in
4 effect for that purpose.

5 SECTION 6. This Act takes effect September 1, 2017.

ADOPTED

MAY 23 2017

Leroy Spaw
Secretary of the Senate

Robert Lee Nichols

By: _____

H.B. No. 3107

Substitute the following for ____B. No. _____:

By: *Rampbell*

C.S. ____B. No. _____

A BILL TO BE ENTITLED

AN ACT

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SECTION 2. Section 552.261, Government Code, is amended by adding Subsection (e) to read as follows:

(e) Except as otherwise provided by this subsection, all requests received in one calendar day from an individual may be treated as a single request for purposes of calculating costs under this chapter. A governmental body may not combine multiple requests under this subsection from separate individuals who submit requests on behalf of an organization.

SECTION 3. Section 552.275, Government Code, is amended by amending Subsections (a), (b), (d), (e), (g), (h), and (j) and adding Subsections (a-1), (e-1), and (m) to read as follows:

1 (a) A governmental body may establish [~~a~~] reasonable
2 monthly and yearly limits [~~limit~~] on the amount of time that
3 personnel of the governmental body are required to spend producing
4 public information for inspection or duplication by a requestor, or
5 providing copies of public information to a requestor, without
6 recovering its costs attributable to that personnel time.

7 (a-1) For purposes of this section, all county officials who
8 have designated the same officer for public information may
9 calculate the amount of time that personnel are required to spend
10 collectively for purposes of the monthly or yearly limit.

11 (b) A yearly time limit established under Subsection (a) may
12 not be less than 36 hours for a requestor during the 12-month period
13 that corresponds to the fiscal year of the governmental body. A
14 monthly time limit established under Subsection (a) may not be less
15 than 15 hours for a requestor for a one-month period.

16 (d) If a governmental body establishes a time limit under
17 Subsection (a), each time the governmental body complies with a
18 request for public information, the governmental body shall provide
19 the requestor with a written statement of the amount of personnel
20 time spent complying with that request and the cumulative amount of
21 time spent complying with requests for public information from that
22 requestor during the applicable monthly or yearly [~~12-month~~]
23 period. The amount of time spent preparing the written statement
24 may not be included in the amount of time included in the statement
25 provided to the requestor under this subsection.

26 (e) Subject to Subsection (e-1), if [~~if~~] in connection with
27 a request for public information, the cumulative amount of

1 personnel time spent complying with requests for public information
2 from the same requestor equals or exceeds the limit established by
3 the governmental body under Subsection (a), the governmental body
4 shall provide the requestor with a written estimate of the total
5 cost, including materials, personnel time, and overhead expenses,
6 necessary to comply with the request. The written estimate must be
7 provided to the requestor on or before the 10th day after the date
8 on which the public information was requested. The amount of this
9 charge relating to the cost of locating, compiling, and producing
10 the public information shall be established by rules prescribed by
11 the attorney general under Sections 552.262(a) and (b).

12 (e-1) This subsection applies only to a request made by a
13 requestor who has made a previous request to a governmental body
14 that has not been withdrawn, for which the governmental body has
15 located and compiled documents in response, and for which the
16 governmental body has issued a statement under Subsection (e) that
17 remains unpaid on the date the requestor submits the new request. A
18 governmental body is not required to locate, compile, produce, or
19 provide copies of documents or prepare a statement under Subsection
20 (e) in response to a new request described by this subsection until
21 the date the requestor pays each unpaid statement issued under
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23 the previous request to which the statement applies.

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3 or before the 10th day after the date the governmental body provided
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5 payment of [a statement in writing to the governmental body in which
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10 ~~[(2)]~~ the amount stated in the written statement
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12 (h) If the requestor fails or refuses to submit payment [the
13 ~~written statement]~~ under Subsection (g), the requestor is
14 considered to have withdrawn the requestor's pending request for
15 public information.

16 (j) This section does not apply if the requestor is an
17 individual who, for a substantial portion of the individual's
18 livelihood or for substantial financial gain, gathers, compiles,
19 prepares, collects, photographs, records, writes, edits, reports,
20 investigates, processes, or publishes news or information for and
21 is seeking the information for:

22 (1) dissemination by a news medium or communication
23 service provider, including:

24 (A) an individual who supervises or assists in
25 gathering, preparing, and disseminating the news or information; or

26 (B) an individual who is or was a journalist,
27 scholar, or researcher employed by an institution of higher

1 education at the time the person made the request for information;
2 or

3 (2) creation or maintenance of an abstract plant as
4 described by Section 2501.004, Insurance Code [a radio or
5 television broadcast station that holds a broadcast license for an
6 assigned frequency issued by the Federal Communications
7 Commission;

8 ~~[(2) a newspaper that is qualified under Section~~
9 ~~2051.044 to publish legal notices or is a free newspaper of general~~
10 ~~circulation and that is published at least once a week and available~~
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25 stations, a cable, satellite, or other transmission system or
26 carrier or channel, or a channel or programming service for a
27 station, network, system, or carrier, or an audio or audiovisual

1 production company or Internet company or provider, or the parent,
2 subsidiary, division, or affiliate of that entity, that
3 disseminates news or information to the public by any means,
4 including:

5 (A) print;

6 (B) television;

7 (C) radio;

8 (D) photographic;

9 (E) mechanical;

10 (F) electronic; and

11 (G) other means, known or unknown, that are
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25 time required by those subsections. If the attorney general
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1 complaint, the attorney general must comply with Subsection (c).

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4 an officer for public information on or after the effective date of
5 this Act. A request for information that was received before the
6 effective date of this Act is governed by the law in effect on the
7 date the request was received, and the former law is continued in
8 effect for that purpose.

9 SECTION 6. This Act takes effect September 1, 2017.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

May 24, 2017

TO: Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB3107 by Ashby (Relating to the production of public information under the public information law.), **As Passed 2nd House**

No significant fiscal implication to the State is anticipated.

The bill would amend Government Code provisions related to when open records requests may be considered withdrawn or combined, time limits for responding to requests, sets forth that requests do not have to be completed until a previous request by the same requestor which had an unpaid statement is either paid for or withdrawn, and which entities may receive open records without payment. According to the Secretary of State, Department of Insurance, Health and Human Services Commission, and Department of Criminal Justice, no significant fiscal impact is anticipated as a result of these provisions.

The bill would also modify and expand the circumstances in which an individual may file a complaint with the Office of the Attorney General (OAG) after initially filing a complaint with a district or county attorney. According to OAG staff, any legal work resulting from the passage of the bill could be absorbed within current resources.

Local Government Impact

According to the Texas Association of Counties, the bill would have a positive fiscal impact on counties; however, due to the unknown number of future open records requests, or how many requests would be unpaid at the time additional requests received from the same person, the cost cannot be determined at this time.

Source Agencies: 302 Office of the Attorney General, 307 Secretary of State, 452 Department of Licensing and Regulation, 454 Department of Insurance, 507 Texas Board of Nursing, 529 Health and Human Services Commission, 696 Department of Criminal Justice, 710 Texas A&M University System Administrative and General Offices, 720 The University of Texas System Administration

LBB Staff: UP, SD, CL, DFR, PM, LBO, MMe, KVe, JGA, TBo

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

May 22, 2017

TO: Honorable Kelly Hancock, Chair, Senate Committee on Business & Commerce

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB3107 by Ashby (Relating to the production of public information under the public information law.), **Committee Report 2nd House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill would amend Government Code provisions related to when open records requests may be considered withdrawn or combined, time limits for responding to requests, sets forth that requests do not have to be completed until a previous request by the same requestor which had an unpaid statement is either paid for or withdrawn, and which entities may receive open records without payment. According to the Secretary of State, Department of Insurance, Health and Human Services Commission, and Department of Criminal Justice, no significant fiscal impact is anticipated as a result of these provisions.

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LBB Staff: UP, CL, DFR, PM, LBO, MMe, KVe, JGA, TBo

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

May 12, 2017

TO: Honorable Kelly Hancock, Chair, Senate Committee on Business & Commerce

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB3107 by Ashby (Relating to the production of public information under the public information law.), **As Engrossed**

No significant fiscal implication to the State is anticipated.

The bill would amend Government Code provisions related to when open records requests may be considered withdrawn or combined, time limits for responding to requests, sets forth that requests do not have to be completed until a previous request by the same requestor which had an unpaid statement is either paid for or withdrawn, and which media entities may receive open records without payment. According to the Secretary of State and Department of Criminal Justice, no significant fiscal impact is anticipated as a result of these provisions.

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LBB Staff: UP, CL, PM, LBO, MMe, KVe, JGA, TBo

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

March 31, 2017

TO: Honorable Gary Elkins, Chair, House Committee on Government Transparency & Operation

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB3107 by Ashby (Relating to the production of public information under the public information law.), **As Introduced**

<p>No significant fiscal implication to the State is anticipated.</p>
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The bill would amend Government Code provisions related to when open records requests may be considered withdrawn or combined, time limits for responding to requests, sets forth that requests do not have to be completed until a previous request by the same requestor which had an unpaid statement is either paid for or withdrawn, and which media entities may receive open records without payment. According to the Secretary of State and Department of Criminal Justice, no significant fiscal impact is anticipated as a result of these provisions.

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